

AMENDED IN SENATE AUGUST 23, 2004
AMENDED IN SENATE AUGUST 16, 2004
AMENDED IN SENATE JUNE 9, 2004
AMENDED IN ASSEMBLY APRIL 22, 2004
AMENDED IN ASSEMBLY APRIL 12, 2004
AMENDED IN ASSEMBLY MARCH 22, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2193

Introduced by Assembly Member Nation
(Coauthor: Senator Speier)

February 18, 2004

An act to amend Sections 22706 and 22708 of the Business and Professions Code, relating to tanning facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2193, as amended, Nation. Tanning facilities.

Existing law, the Filante Tanning Facility Act, provides for regulation of tanning facilities by the Department of Consumer Affairs, and requires a tanning facility to provide a written warning to customers and to post certain warning signs in the facility. Existing law makes a first violation of the act an infraction, and subsequent violations a misdemeanor.

This bill would make a tanning facility that violates a provision of the act liable for a civil penalty not to exceed \$2,500 per day.

Existing law requires a ~~person between 14 and 18 years of age to give a tanning facility a consent statement signed by the person's parent or legal guardian before he or she may use a tanning device, and requires a person less than 14 years of age to be accompanied by his or her parent or guardian when using a tanning device.~~

This bill would instead prohibit a person less than ~~18~~ 14 years of age from using a tanning device ~~except upon prescription by a physician and surgeon for treatment of a medical condition.~~

By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the
- 2 following:
- 3 (a) The United States Food and Drug Administration (FDA)
- 4 and numerous leading United States health care organizations
- 5 estimate that approximately one million Americans each year will
- 6 be stricken with skin cancer, a potentially deadly disease, and the
- 7 most common of all types of cancers.
- 8 (b) Melanoma is more common than any nonskin cancer
- 9 among women between 25 and 29 years old, and as of 2003, one
- 10 in 70 Californians has a lifetime risk of developing melanoma.
- 11 Nationally, one person dies of melanoma every hour.
- 12 (c) The FDA, joined by the National Institutes of Health (NIH),
- 13 the United States Center for Disease Control and Prevention
- 14 (CDC), and numerous leading United States and international
- 15 health care organizations, discourages the use of tanning beds and
- 16 sunlamps, and has concluded that indoor tanning can be as harmful
- 17 as outdoor tanning, and that perhaps more than one million people
- 18 in the United States alone visit tanning salons each day on the
- 19 average.



1 (d) The FDA and numerous leading United States and
2 international health care organizations have expressed concerns
3 that the consuming public generally does not know that indoor
4 tanning devices, such as tanning beds and sunlamps, emit
5 ultraviolet radiation, UVA and UVB, that is similar to and
6 sometimes more powerful than the UV radiation emitted by the
7 sun.

8 (e) The leading cause of skin cancers in California, including
9 basal cell and squamous cell carcinomas and melanoma, is
10 excessive exposure to UVA and UVB rays from both natural and
11 artificial sources. The FDA has concluded that there are no “safe
12 rays” insofar as both types of ultraviolet light cause skin cancer,
13 damage to the eyes and the immune system, as well as wrinkling
14 and other signs of premature skin aging.

15 (f) Tanning devices in salons, tanning parlors, spas, and similar
16 settings that emit mostly UVA light are in no way less harmful
17 alternatives to the sun’s rays, insofar as UVA rays penetrate deeper
18 than UVB rays, causing damage to the underlying connective
19 tissue as well as to the skin’s surface.

20 (g) Since there is currently no repair treatment available for
21 reversing the brutal effects of UVA and UVB rays on the skin,
22 effecting basic, minimally intrusive, public education to prevent
23 such damage before it occurs is the best approach to maintaining
24 the public health of the citizens of this state.

25 (h) It is in the public interest to exercise the state’s public
26 education capabilities to warn the public of the risks of UVA
27 radiation exposure by skin tanning units or devices, to endorse the
28 findings released by the FDA warning Americans that the use of
29 UVA tanning booths and sun beds pose potentially significant
30 health risks to users, and to adopt legislation regarding UVA
31 exposure to ensure the posting of warnings of these risks in
32 commercial tanning salons, parlors, and spas.

33 SEC. 2. Section 22706 of the Business and Professions Code
34 is amended to read:

35 22706. (a) A tanning facility shall:

36 (1) Have an operator present during operating hours who is
37 sufficiently knowledgeable in the correct operation of the tanning
38 devices used at the facility so that he or she is able to inform and
39 assist each customer in the proper use of the tanning devices.

(2) Before each use of a tanning device, provide each customer with properly sanitized protective eyewear that protects the eye from ultraviolet radiation and allows adequate vision to maintain balance; and not allow a person to use a tanning device if that person does not use the protective eyewear.

(3) Show each customer how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer.

(4) Use a timer that has an accuracy of plus or minus 10 percent of any selected timer interval.

(5) Limit each customer to the maximum exposure time as recommended by the manufacturer.

(6) Control the interior temperature of a tanning facility so that it does not exceed 100 degrees Fahrenheit.

(b) (1) Every person who uses a tanning facility shall sign a written statement acknowledging that he or she has read and understood the warnings before using the device; and agrees to use the protective eyewear that the tanning facility provides. The statement of acknowledgment shall be retained by the tanning facility until the end of the calendar year at which time each person who is a current customer of the facility shall be required to renew that acknowledgment.

(2) Whenever using a tanning device a person shall use the protective eyewear that the tanning facility provides.

~~(3) A person less than 18 years of age may not use a tanning device at a tanning facility except upon written prescription by a physician and surgeon to treat a medical condition.~~

(3) Before any person between 14 and 18 years of age uses a tanning device, he or she shall give the tanning facility a statement signed by his or her parent or legal guardian stating that the parent or legal guardian has read and understood the warnings given by the tanning facility, consents to the minor's use of a tanning device, and agrees that the minor will use the protective eyewear that the tanning facility provides.

(4) Persons under 14 years of age are prohibited from using a tanning device.

SEC. 3. Section 22708 of the Business and Professions Code is amended to read:

1 22708. (a) A first violation of this chapter is an infraction.
2 Each day a first violation continues constitutes a separate
3 infraction.

4 (b) Any violation of this chapter subsequent to a first violation
5 is a misdemeanor. Each day a subsequent violation continues
6 constitutes a separate misdemeanor.

7 (c) A tanning facility that has violated this chapter shall be
8 liable for a civil penalty not to exceed two thousand five hundred
9 dollars (\$2,500) per day in addition to any other penalty
10 established by law.

11 SEC. 4. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.

